

AMENDED IN ASSEMBLY MAY 5, 2014

AMENDED IN ASSEMBLY APRIL 21, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2539

Introduced by Assembly Member Ting

February 21, 2014

An act to amend Section 114371 of the Health and Safety Code, relating to certified farmers' markets.

LEGISLATIVE COUNSEL'S DIGEST

AB 2539, as amended, Ting. Certified farmers' markets.

Existing law, the California Retail Food Code, establishes uniform health and sanitation standards for retail food facilities and various types of food venues, including specified food safety and sanitation requirements for certified farmers' markets governing food preparation, storage, and sampling, among other things. Existing law provides that local health agencies are primarily responsible for enforcing the code, but requires the State Department of Public Health to provide technical assistance, training, standardization, program evaluation, and other services to the local health agencies as necessary to ensure the uniform interpretation and application of the code, and to adopt regulations to implement and administer the code. A person who violates any provision of the code is guilty of a misdemeanor, except as otherwise provided.

This bill would revise the requirements imposed on certified farmers' markets. Among other things, the bill would ~~require that foods that are ordinarily consumed without prior washing by the consumer, and that are being sold on a bulk or nonprepackaged basis, be displayed and~~

dispensed by the producer from covered containers. The bill would provide that trimming whole produce for sale is not food preparation for purposes of a provision generally prohibiting food preparation at certified farmers' markets. The bill would require that each food sample be distributed by the producer individually and directly to each consumer. The bill would require that all meat, *poultry, and fish* products offered for sale be transported, stored, displayed, and maintained at a temperature of ~~41 degrees Fahrenheit~~ *41°F* or colder, ~~would prohibit a product from being stored under conditions where it is sitting or floating in melted ice water,~~ and would require that all meat, *poultry, and fish* products be stored in dedicated species-specific coolers or freezers to ~~reduce a manner that reduces~~ the risk of cross-contamination ~~from one species to another~~. The bill would also prohibit smoking within 25 feet of the common commerce area, as described, of a certified farmers' market. By imposing new enforcement requirements on local health agencies, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 114371 of the Health and Safety Code
- 2 is amended to read:
- 3 114371. Certified farmers' markets shall meet all of the
- 4 following requirements:
- 5 (a) All food shall be stored at least six inches off the floor or
- 6 ground or under any other conditions that are approved. ~~Foods~~
- 7 ~~including, but not limited to, flavored nuts and dried fruits that are~~
- 8 ~~ordinarily consumed without prior washing by the consumer, and~~
- 9 ~~that are being sold on a bulk or nonprepackaged basis, shall be~~
- 10 ~~displayed and dispensed by the producer from covered containers.~~

1 (b) Food preparation is prohibited at certified farmers' markets
2 with the exception of food samples. Trimming whole produce for
3 sale shall not be considered food preparation. Distribution of food
4 samples may occur provided that the following sanitary conditions
5 exist:

6 (1) Samples shall be kept in clean and covered containers
7 intended for use with foods.

8 (2) All food samples shall be distributed by the producer in a
9 sanitary manner. Each sample shall be distributed by the producer
10 individually and directly to each consumer. No consumer
11 self-serving of samples shall be allowed.

12 (3) Clean, disposable plastic gloves shall be used when cutting
13 food samples.

14 (4) Food intended for sampling shall be washed or cleaned in
15 another manner of any soil or other material by potable water in
16 order that it is wholesome and safe for consumption.

17 (5) Notwithstanding Section 114205, potable water shall be
18 available for handwashing and sanitizing as approved by the
19 enforcement agency.

20 (6) Potentially hazardous food samples shall be maintained at
21 or below 45°F and shall be disposed of within two hours after
22 cutting.

23 (7) Wastewater shall be disposed of in a facility connected to
24 the public sewer system or in a manner approved by the
25 enforcement agency.

26 (8) Utensils and cutting surfaces shall be smooth, nonabsorbent,
27 and easily cleanable, or single-use articles shall be utilized. ~~The~~
28 ~~producer shall maintain an adequate supply of clean replacement~~
29 ~~utensils readily available at the site at the time of use. If the~~
30 *producer uses only single use articles or maintains an adequate*
31 *supply of clean replacement articles readily available at the site*
32 *at the time of use, warewashing facilities shall not be required.*

33 (c) Approved toilet and handwashing facilities shall be available
34 within 200 feet travel distance of the premises of the certified
35 farmers' market or as approved by the enforcement officer.

36 (d) No live animals, birds, or fowl shall be kept or allowed, and
37 no individual shall bring a live animal, bird, or fowl, within 20
38 feet of any area where food is stored or held for sale within a
39 certified farmers' market. This subdivision does not apply to guide
40 dogs, signal dogs, or service dogs when used in accordance with

1 the federal Americans with Disabilities Act of 1990 (42 U.S.C.
2 Sec. 12101 et seq.), and as provided in Section 36.104 of Title 28
3 of the Code of Federal Regulations. All guide dogs, signal dogs,
4 and service dogs shall be used and properly identified in accordance
5 with Section 54.1 and subdivision (b) of Section 54.2 of the Civil
6 Code, and Sections 30850, 30851, and 30852 of the Food and
7 Agricultural Code.

8 (e) All garbage and refuse shall be stored and disposed of in a
9 manner approved by the enforcement officer.

10 (f) Smoking of cigarettes, cigars, pipe tobacco, and other
11 nicotine products shall not be permitted within 25 feet of the
12 common commerce area comprised of sales personnel and shopping
13 customers of the certified farmers' market.

14 ~~(g) Permitted and licensed~~ *Notwithstanding Chapter 10*
15 *(commencing with Section 114294)* vendors selling food adjacent
16 to, and under the jurisdiction and management of, a certified
17 farmers' market may store, display, and sell from a table or display
18 fixture apart from the mobile facility in a manner approved by the
19 enforcement agency. ~~This section shall not apply to temporary~~
20 ~~food facilities engaging in food preparation.~~ *If none of the vendors*
21 *selling food adjacent to and under a certified farmers' market's*
22 *jurisdiction and management sell potentially hazardous foods or*
23 *engage in food preparation, the certified farmers' market shall*
24 *not be required to obtain a permit for these vendors in compliance*
25 *with Section 114381.1.*

26 ~~(h) (1) Individually permitted and licensed vendors selling~~
27 ~~bakery goods or prepackaged foods, but not engaging in food~~
28 ~~preparation, may be operated in conjunction with, adjacent to, and~~
29 ~~under the auspices of a certified farmers' market if they are in~~
30 ~~compliance with Section 114381.1. However, the operator of the~~
31 ~~certified farmers' market shall be responsible for ensuring~~
32 ~~compliance by those vendors with the applicable provisions of this~~
33 ~~code.~~

34 (2)

35 ~~(h)~~ Temporary food facilities ~~engaging in food preparation~~ may
36 ~~be a component part of an activity~~ operated as at a separate
37 community event adjacent to, and in conjunction with, certified
38 farmers' markets. The organization in control of the community
39 event at which one or more of these temporary food facilities
40 operate shall comply with Section 114381.1.

1 (i) All meat, *poultry, and fish* products offered for sale shall be
2 transported, stored, displayed, and maintained at a temperature of
3 ~~41 degrees Fahrenheit~~ *41° F* or colder. The temperature holding
4 capabilities of the ~~chest and cooler~~ storage containers used shall
5 be sufficient to maintain safe product temperatures. Storage
6 containers ~~manufactured solely from the polystyrene foam~~
7 ~~insulation known as Styrofoam™ are prohibited. A product shall~~
8 ~~not be stored under conditions where it is sitting or floating in~~
9 ~~melted ice water. All meat products shall be stored in dedicated~~
10 ~~species-specific coolers or freezers to reduce the risk of~~
11 ~~cross-contamination from one species to another.~~ *for meat, poultry,*
12 *and fish products shall have interior surfaces that are smooth,*
13 *nonabsorbent, and easily cleanable. All meat, poultry, and fish*
14 *products shall be stored in a manner that reduces the risk of*
15 *cross-contamination.*

16 SEC. 2. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution for certain
18 costs that may be incurred by a local agency or school district
19 because, in that regard, this act creates a new crime or infraction,
20 eliminates a crime or infraction, or changes the penalty for a crime
21 or infraction, within the meaning of Section 17556 of the
22 Government Code, or changes the definition of a crime within the
23 meaning of Section 6 of Article XIII B of the California
24 Constitution.

25 However, if the Commission on State Mandates determines that
26 this act contains other costs mandated by the state, reimbursement
27 to local agencies and school districts for those costs shall be made
28 pursuant to Part 7 (commencing with Section 17500) of Division
29 4 of Title 2 of the Government Code.